

CAROL C. LAM  
United States Attorney  
LUELLA M. CALDITO  
Assistant United States Attorney  
California State Bar No. 215953  
United States Attorney's Office  
Federal Office Building  
880 Front Street, Room 6293  
San Diego, California 92101  
Telephone: (619) 557-7035  
  
Attorneys for Plaintiff  
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
AURELIO IBARRA-RODRIGUEZ, )  
 )  
Defendant. )

06CR2030-W  
Magistrate Case No. 06MG1635

**STIPULATION OF FACT AND JOINT  
MOTION FOR RELEASE OF  
MATERIAL WITNESS(ES) AND  
ORDER THEREON**

(Pre-Indictment Fast-Track Program)

**IT IS HEREBY STIPULATED AND AGREED** between the plaintiff, UNITED STATES OF AMERICA, by and through its counsel, Carol C. Lam, United States Attorney, and Luella M. Caldito, Assistant United States Attorney, and defendant AURELIO IBARRA-RODRIGUEZ, by and through and with the advice and consent of defense counsel, Mary F. Prevost, Esq., that:

1. Defendant agrees to execute this stipulation on or before the first preliminary hearing date and to participate in a full and complete inquiry by the Court into whether defendant knowingly, intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead guilty to the pre-indictment information charging defendant with a non-mandatory minimum count of Bringing in Aliens Without Presentation and Aiding and Abetting, in violation of 8 U.S.C. § 1324(a)(2)(B)(iii) and 18 U.S.C. § 2.

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2. Defendant acknowledges receipt of a plea agreement in this case and agrees to provide the signed, original plea agreement to the Government not later than five business days before the disposition date set by the Court.

3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or before **October 4, 2006**.

4. The material witness, Maria Robledo-Lopez, in this case:

a. Is an alien with no lawful right to enter or remain in the United States;

b. Entered or attempted to enter the United States illegally on or about August 31, 2006;

c. Was found in a vehicle driven by defendant at the San Ysidro, California Port of Entry (POE) and that defendant knew or acted in reckless disregard of the fact that she was an alien with no lawful right to enter or remain in the United States;

d. Was having others pay on her behalf \$1,500 to others to be brought into the United States illegally and/or transported illegally to her destination therein; and,

e. May be released and remanded immediately to the Department of Homeland Security for return to her country of origin.

5. After the material witnesses are ordered released by the Court pursuant to this stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral attack, that:

a. The stipulated facts set forth in paragraph 4 above shall be admitted as substantive evidence;

b. The United States may elicit hearsay testimony from arresting agents regarding any statements made by the material witness(es) provided in discovery, and such testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements against interest of (an) unavailable witness(es); and,

c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),

1 "testimonial" hearsay statements are not admissible against a defendant unless defendant confronted  
2 and cross-examined the witness(es) who made the "testimonial" hearsay statements, defendant  
3 waives the right to confront and cross-examine the material witness(es) in this case.

4 6. By signing this stipulation and joint motion, defendant certifies that defendant has  
5 read it (or that it has been read to defendant in defendant's native language). Defendant certifies  
6 further that defendant has discussed the terms of this stipulation and joint motion with defense  
7 counsel and fully understands its meaning and effect.

8 Based on the foregoing, the parties jointly move the stipulation into evidence and for the  
9 immediate release and remand of the above-named material witness(es) to the Department of  
10 Homeland Security for return to her country of origin.

11 It is STIPULATED AND AGREED this date.


12 Respectfully submitted,

13 CAROL C. LAM  
14 United States Attorney

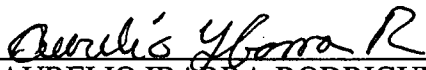
15 Dated: 9-19-06

  
16 LUELLA M. CALDITO  
17 Assistant United States Attorney

18 Dated: 9.19.06

  
19 MARY F. PREVOST  
20 Defense Counsel for IBARRA-RODRIGUEZ

21 Dated: 9/19/06

  
22 AURELIO IBARRA-RODRIGUEZ  
23 Defendant

**ORDER**

Upon joint application and motion of the parties, and for good cause shown,

**THE STIPULATION** is admitted into evidence, and,

**IT IS ORDERED** that the above-named material witness(es) be released and remanded forthwith to the Department of Homeland Security for return to her country of origin.

**SO ORDERED.**

Dated: 9-19-06

  
United States Magistrate Judge

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff

vs.

Aurelio Ibarra-Rodriguez

Defendant(s)

CRIMINAL NO. 06CR2030-W  
06M61635-NLS  
ORDER

RELEASING MATERIAL WITNESS

Booking No. 95396198

On order of the United States District/Magistrate Judge, Stormes.

IT IS HEREBY ORDERED that the following named person heretofore committed to the custody of the United States Marshal as a material witness be released from custody: (Bond Posted / Case Disposed / Order of Court).

Maria Robledo-Lopez

DATED: 9-19-06

NITA L. STORMES

UNITED STATES DISTRICT/MAGISTRATE JUDGE

RECEIVED

DUSM

OR

W. SAMUEL HAMRICK, JR. Clerk

by

J. Ferrault  
Deputy Clerk